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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,157	11/17/2003	Laura Lee Martin	80052	4293

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EXAMINER

MULLIS, JEFFREY C

ART UNIT PAPER NUMBER

1711

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/715,157

Applicant(s)

MARTIN ET AL.

Examiner

Jeffrey C. Mullis

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2-8-00.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27, 29-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27, 29-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 and 29-51 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kawachi et al. (US 6,656,601).

Patentees disclose a composition which is produced by mixing a maleic anhydride grafted and non grafted ethylene octene copolymer with a hydrogenated petroleum resin in an extruder at 200 degrees centigrade which is used to adhere a laminate. Note "Example A1" (as well as similar Example "A2" and "B1") in column 37. Note Table 4 for use of metallocene generated polymer.

Applicants' characteristics are not explicitly disclosed but due to the similarity of the disclosed components characteristics in the application claims reasonably appear to be inherently the same as in the reference.

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When the reference discloses all the limitations of a claim except a property or function, and the Examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention, basis exists for shifting the burden of proof to applicant. Note In re Fitzgerald et al. 619 F. 2d 67, 70, 205 USPQ 594, 596, (CCPA 1980). See MPEP § 2112-2112.02.

Claims 1-27 and 29-51 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wong (US 6,399,191).

Patentees disclose compositions containing grafted and non grafted metallocene ethylene alpha olefin copolymers, tackifiers (including the hydrogenated tackifier Escorez 1315) and antioxidants. Note Examples 1-26 in columns 8 and 9 in this re. The compositions are produced by melt blending at column 7, lines 55-56. The polyolefins are produced using metallocene catalysts, disclosed to result oin long chain branching at column 5, lines 24-35. Coating and lamination is disclosed at column 8, lines 28-35.

Applicants' characteristics are not explicitly disclosed but due to the similarity of the disclosed components characteristics in the application claims reasonably appear to be inherently the same as in the reference.

When the reference discloses all the limitations of a claim except a property or function, and the Examiner cannot determine whether or not the

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reference inherently possesses properties which anticipate or render obvious the claimed invention, basis exists for shifting the burden of proof to applicant. Note In re Fitzgerald et al. 619 F. 2d 67, 70, 205 USPQ 594, 596, (CCPA 1980). See MPEP § 2112-2112.02.

Claims 1-27 and 29-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Godfrey (US 5,763,516).

Patentees disclose a composition for adhering paperboard and paper etc (column 9, lines 5-15) produced by melt mixing an ethylene alpha olefin metallocene copolymer and a maleated polyethylene, an aliphatic hydrocarbon tackifier and an antioxidant. Note column 9, lines 66 et seq and Examples 1-20 therein in this re. Applicants' fiber tear characteristic is explicitly disclosed in Table 2.

Claims 1-27 and 29-51 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lee et al. (US 5,744,250).

Patentees disclose a composition produced by blending a "polyolefin A" which is an ethylene alpha olefin with a "modified ethylene alpha olefin" and "elastomer" which is SEBS (an hydrogenated hydrocarbon; see the footnote to Table 2 disclosing "HC-5").. The blending takes place at 225-250 degrees centigrade in an extruder with an antioxidant at column 5, lines 50-59.

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Applicants' characteristics are not explicitly disclosed but due to the similarity of the disclosed components characteristics in the application claims reasonably appear to be inherently the same as in the reference.

When the reference discloses all the limitations of a claim except a property or function, and the Examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention, basis exists for shifting the burden of proof to applicant. Note In re Fitzgerald et al. 619 F. 2d 67, 70, 205 USPQ 594, 596, (CCPA 1980). See MPEP § 2112-2112.02.

Applicant's arguments filed 2-8-06 have been fully considered but they are not persuasive. Applicants remarks argue that the art relied upon does not disclose applicants melt index characteristic. However any macromolecular material which is molten at 190 degrees centigrade inherently has applicants melt index provided that the correct load is chosen. As applicants claims are not limited to load, applicants newly added recitation in claim 1 re melt index has little or no meaning as a limitation. Applicants argue that the prior art discloses melt indices which are lower than above 100. However raising the load of measurement used in the references sufficiently would result in a flow rate in applicants range. The examiner realizes that the specification does make reference to ASTM 1238 but ASTM 1238 appears to permit use of more than one load as evidenced by Mavridis at paragraph 35 and Suzuki at paragraph 118, both newly cited but in any case limitations from the specification are not read

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into the claims. With re to materials such as wax which the prior art discloses but which may not be explicitly recited by the claims, the term "consisting essentially of" only excludes those materials which materially affect the novel and basic characteristics of a composition and it is applicants' burden to prove that such characteristics are changed by the presence of additional materials recited in a prior art product. Note In re Janakirama-Rao, 317 F. 2d 951, 137 USPQ 893 (CCPA 1963) and In re De Lajarte, 337 F. 2d 870, 143 USPQ 256 (CCPA 1964) in this regard.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

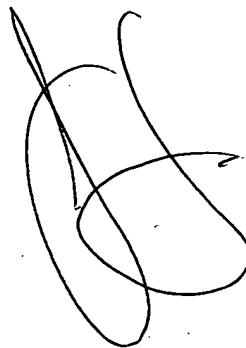
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Jeffrey C. Mullis  
J Mullis  
Art Unit 1711

JCM

4-5-06

Jeffrey Mullis  
Primary Examiner  
Art Unit 1711

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a final horizontal stroke.